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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,995	01/26/2004	Philip Stephen Smith	PA0959.ap.US	6766
<div>7590 07/24/2007 Mark A. Litman &amp; Associates, P.A. York Business Center, Suite 205 3209 West 76th St. Edina, MN 55435</div>			<div>EXAMINER MOSSER, ROBERT E</div>	
			<div>ART UNIT 3714</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 07/24/2007</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/764,995	<b>Applicant(s)</b> SMITH ET AL.	
	<b>Examiner</b> Robert Mosser	<b>Art Unit</b> 3714	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED July 11<sup>th</sup>, 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

(Continuation of item 11 on form PTO-303)

A. Applicant's claims that the double patenting type rejection has been overcome by the terminal disclaimer filed February 13<sup>th</sup>, 2007 are not supported by the evidence of record as set forth below.

1) The Double Patenting rejection cites the claim(s) of Application 10/910,713 against the instant application.

2) The terminal disclaimer filed February 13<sup>th</sup>, 2007 is directed to application 10/764,994.

3) The terminal disclaimer is not directed to the Application listed in the double patenting rejection and therefore cannot be relied upon to overcome said double patenting rejection.

*Copies of the terminal disclaimer as filed, and portions of the Patent publication referenced in the double patenting rejection are attached for the Applicant's reference.*

B. The Applicant argues the utilization of video images to form a composite image of a dealer against a background as a novel feature of the claimed invention not provided for by the prior art however this argument is not persuasive.

1) The argued limitations of a "processor can be fed at least two different multiple video images and merge those images to form a composite image of a dealer against a background" set forth the intended use of a apparatus type claim and therefore imbues

limited patentable weight in an apparatus type claim in accordance with MPEP 2114 as previous set forth on at least page 4 the final office action dated May 11<sup>th</sup>, 2007.

2) The Applicant contends that claim 2 of Toyoda is cited for the teaching of a feature as claimed however this interpretation is not reflective of the Final office Action dated May 11<sup>th</sup>, 2007. The only reference to a "claim 2" in the final rejection of May 11<sup>th</sup>, 2007 is prefaced with the term pending "pending" and reference the Applicant's claims not claims of the prior art. Hence the Examiner does not and has not relied upon patented claim number 2 of Toyoda to teach the feature of a live video feed as alleged and argued by the Applicant. The redress of the claimed feature including a live image maybe found on at least page 5 the final office action dated May 11<sup>th</sup>, 2007.

3) The Applicant contends the prior art of Toyoda fails to teach a processing board individually associated and dedicated with each player position. If the applicant intends for this limitation to encompass any processing board the individual display device of Toyoda (Elm 32) would implicitly contain a display driver board associated therewith. In further addition to this however Toyoda provides several exemplary devices that may serve as player terminals and that are known to contain processing boards including but not limited to a cell phone device in paragraph 71 of 2004/0063482.

For the above reasons the rejections as presented in the Final office action dated May 11<sup>th</sup>, 2007 are maintained.

  
MARK SAGER  
PRIMARY EXAMINER

PTO/SB/25 (09-06)

Approved for use through 03/31/2007. OMB 0551-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)

PA 0959, ap. 48

In re Application of: Philip Steven Smith et alApplication No.: 10/764,995Filed: January 26, 2004For: AUTOMATED MULTIPLAYER GAME TABLE WITH UNIQUE IMAGE FIELD IE DEALER

The owner, Shuffle Master, Inc., of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/764,994, filed on January 26, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that any such patent: granted on the pending reference application; expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 26,390

Mark A. Litman  
Signature  
MARK A. LITMAN

13 February 2007  
Date

Typed or printed name

952.832.9090

Telephone Number

- ☐ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

Debit Attorney's Debit Account No. 501391  
Mark A. Litman

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/88 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

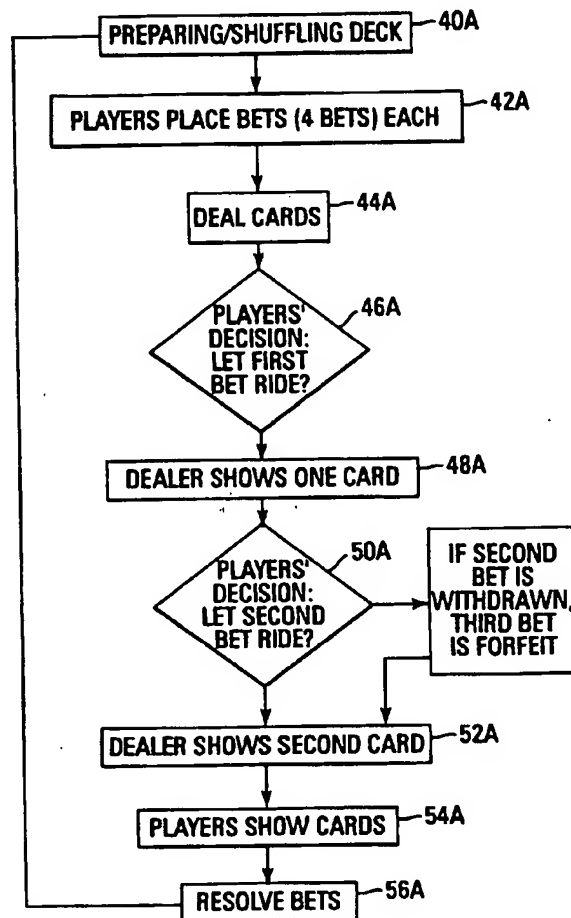
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US 20060025191A1

(19) **United States**(12) **Patent Application Publication****Snow et al.**(10) **Pub. No.: US 2006/0025191 A1**(43) **Pub. Date: Feb. 2, 2006**(54) **HIGH-LOW POKER WAGERING GAMES**(52) **U.S. Cl. .... 463/13**(75) **Inventors: Roger M. Snow, Las Vegas, NV (US);  
Robert Scott, Las Vegas, NV (US)**(57) **ABSTRACT****Correspondence Address:****Mark A. Litman & Associates, P.A.  
York Business Center  
Suite 205  
3209 West 76th St.  
Edina, MN 55435 (US)**(73) **Assignee: Shuffle Master, Inc.**(21) **Appl. No.: 10/910,713**(22) **Filed: Aug. 2, 2004****Publication Classification**(51) **Int. Cl.  
A63F 9/24 (2006.01)**

A method of playing a wagering game comprises the steps of a player placing a first wager to participate in the wagering game and dealing at least a partial hand of cards to each player participating in the wagering game. The method includes providing a set of winning outcomes and corresponding payout odds against a pay table, wherein the set of winning outcomes includes at least one predetermined minimum high ranking hand and at least one predetermined maximum low ranking hand. Additional card are dealt, if necessary to complete each player hand. The method further includes the step of paying a player a payout on the first wager for obtaining a winning outcome without requiring the player to make an election as between having at least one predetermined minimum high ranking hand and at least one predetermined maximum low ranking hand.



55. The automated gaming system of claim 52 wherein additional player input can be provided from player input provided on a surface below the video display surface and facing a position where players are to be seated.

56. The automated gaming system of claim 46 wherein communication between the main game processor and the individual player processor is performed through a transaction-based protocol.

57. The automated gaming system of claim 54 wherein either the main game processor or the individual player processor can start a transaction.

58. The automated gaming system of claim 48 wherein communication between the main game processor and the individual player processor is performed through a transaction-based protocol.

59. The automated gaming system of claim 56 wherein either the main game processor or the individual player processor can start a transaction.

60. The automated gaming system of claim 52 wherein each player position has an individual player processing board dedicated to that position and communication between the main game processor and the individual player processor is performed through a transaction-based protocol.

61. An automated gaming system comprising a gaming table and an upright video display panel communicatively connected to a computer based processor that provides software to practice the method of claim 1 comprising:

an upright video display panel, the panel displaying a virtual image of a dealer;

a table having an upper surface, the upper surface having a substantially horizontal video display surface that provides a continuous field of video display and at least two different player positions; and

at least one main game processor and optionally at least one additional game display processor in information communication with the upright video display panel and the video display surface, the main processor or at least one display processor directing video display on both the upright video display panel and the video display surface, and the main game processor providing game rules for the play of at least one casino table card game without the use of physical cards on the table

and a plurality of player stations, each player station having its own intelligence.

62. The device of claim 59 wherein each player station and the main game processor are in communication.

63. The device of claim 60 wherein the communication is event driven.

64. The device of claim 61 wherein information communicated is included in an information packet.

65. An automated gaming system comprising a gaming table and an upright video display panel communicatively connected to a computer based processor that provides software to practice the method of claim 1 comprising:

an upright video display panel, the panel displaying a virtual image of a dealer,

a table having an upper surface, the upper surface having a substantially horizontal video display surface that provides a continuous field of video display and at least two different player positions, each player position having an intelligent board; and

at least one main game processor and optionally at least one additional game display processor in information communication with the upright video display panel and the video display surface, the main processor or at least one display processor directing video display on both the upright video display panel and the video display surface, and the main game processor providing game rules for the play of at least one casino table card game without the use of physical cards on the table;

wherein the intelligent boards are in communication with the main game processor, sending packets of information from player positions as events occur.

66. The automated gaming system of claim 63 wherein the communication between the intelligent boards and the main game processor comprises communication of player input.

67. The automated gaming system of claim 64 wherein there is a dealer game engine intermediate the intelligent boards and the main game processor.

68. A method of playing an automated game having an upright video display panel communicatively connected to a computer based processor that provides software to practice the method of claim 1, the panel displaying a virtual image of a dealer, a table having an upper surface, the upper surface having a substantially horizontal video display surface that provides a continuous field of video display and at least two different player positions, each of the at least two player positions having an intelligent board, and a main game processor, the method comprising sending packets of information from intelligent boards at player positions to the main game processor as events occur at player positions.

69. The method of claim 66 wherein player input initiates the communication between the intelligent boards and the main game processor.

70. The method of claim 67 wherein there is a dealer game engine intermediate the communication path between the intelligent boards and the main game processor.

71. The method of claim 66 wherein the packets of information are sent directly from the intelligence boards to the main game processor for communication of player input.

72. The method of claim 66 wherein the communication is event driven.

73. The method of claim 66 wherein the communication comprises a cyclic redundancy check.

74. The method of claim 66 wherein the communication is transaction based.

75. An automated wagering gaming event system connected to at least one processor that provides software to practice the method of claim 1 comprising:

at least two distinct video displays, a first display for showing a dealer in a card game and at least a second display showing playing cards to individual players;

the at least one processor for enabling play of the wagering gaming event;

multiple player positions to enable multiple players to play the game;

wherein the at least one processor can a) feed or b) receive and feed at least two different multiple video images and merge the at least two multiple video images to form a composite image of a dealer against a background, wherein the background comprises at least one dynamic image.